

REMARKS/ARGUMENTS

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

The examiner rejected previously submitted independent claim 11 as being anticipated by U.S. Patent 5,263,955 to Baumgart et al. As to how this rejection applies to the claims as amended herein, it is respectfully traversed.

Independent claim 11 has been amended so as to set forth with specificity the engagement of the second element with exact fit in the polygonal inner cross section of the first element to secure against torsion. The structure is not at all shown, disclosed nor rendered obvious by the Baumgart et al. '955 document. The examiner in rejecting previously submitted independent claim 11 sets forth the following:

"...said guide means comprising an inner surface an inner surface on the first element having a polygonal shape, namely a circle (Fig 3)..."

a circle is not a polygonal shape. A polygon is a plain figure that is bounded by a closed path composed of a finite sequence of straight line segments. A circle has no straight line segments. A circle cannot secure the elements against torsion. Claim 11 specifically sets forth the polygonal inner cross section of the first element and the engagement with the second element to secure against torsion. This is not at all shown, disclosed nor rendered obvious by the Baumgart patent '955 patent. Thus, the cited prior art reference cannot function and is structurally different from that of the present invention. In the present invention the two elements 1 and 2 are secured

against torsion one in the other by means of the polygonal cross section of both elements namely of the polygonal inner surface of element 1 and the polygonal outer surface of element 2. (See Figure 3). Within the bone the whole device is not secured against torsion because within the bone the device is attached by means of bolts. The device of the present invention as claimed in independent claim 11 is totally different from that shown and disclosed in the cited '955 Baumgart reference.

In light of the foregoing, it is respectfully submitted that independent claim 11 and dependent claims 12-19 patentably define over the art of record and the early issuance of a Notice of allowance is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

Apln. SN 10/569,519
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If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

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